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3 CISCO SYSTEMS INC,
4 Plaintiff,
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6 v.
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8 ARISTA NETWORKS, INC.,
9 Defendant.
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Case No. 14-cv-05344-BLF

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28 **ORDER RE SEALING MOTIONS**

[Re: ECF 584, 592]

This order addresses Arista Networks, Inc.’s administrative motions to file under seal portions of its briefing and exhibits in support of its response to Cisco Systems Inc.’s Submission re Protectable Elements. ECF 584. It also addresses the motion to file under seal Court’s *Daubert* Order. ECF 592. For the reasons stated below, the motions are GRANTED IN PART and DENIED IN PART.

I. LEGAL STANDARD

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are “more than tangentially related to the merits of a case” may be sealed only upon a showing of “compelling reasons” for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed upon a lesser showing of “good cause.” *Id.* at 1097. In addition, sealing motions filed in this district must be “narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b). A party moving to seal a document in whole or in part must file a declaration establishing that the

1 identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or
 2 protective order that allows a party to designate certain documents as confidential is not sufficient
 3 to establish that a document, or portions thereof, are sealable.” *Id.*

4 **II. DISCUSSION**

5 The Court has reviewed Arista Networks, Inc.’s sealing motions and declarations in
 6 support thereof. The Court finds the parties have articulated compelling reasons to seal certain
 7 portions of most of the submitted documents. The proposed redactions are also narrowly tailored.
 8 The Court’s rulings on the sealing requests are set forth in the tables below:

9 **A. ECF 584**

10 Identification of Documents to be Sealed	11 Description of Documents	12 Court’s Order
13 Arista’s Response to Cisco’s 14 Submission re Protectable 15 Elements	16 Highlighted portions on pages 17 5 and 7 contain Cisco’s 18 confidential product 19 development information. 20 Highlighted portions on pages 21 8 and 14 contain Juniper 22 Networks, Inc.’s confidential 23 information relating to its 24 proprietary software and trade 25 secrets. No parties seek to seal 26 the other highlighted portions.	27 GRANTED as to the 28 highlighted positions on pages 5, 7, 8, and 14; and DENIED as to remainder.
29 Exhibit 1 to the Declaration of 30 John R. Black, Jr. ISO Arista’s 31 Response to Cisco’s 32 Submission re Protectable 33 Elements	34 Paragraphs 13, 23, 35, 59, 76, 35 78, 80, 84, 85, 98, 99, 100 and 36 footnote 11 contain Cisco’s 37 confidential information 38 relating to Cisco’s product 39 development and source code. 40 Cisco does not seek to seal 41 other portions of this exhibit.	42 GRANTED as to Paragraphs 43 13, 23, 35, 59, 76, 78, 80, 84, 44 85, 98, 99, 100 and footnote 45 11; and DENIED as to 46 remainder.
47 Exhibit 7 to the Declaration of 48 Ryan Wong ISO Arista’s 49 Response to Cisco’s 50 Submission re Protectable 51 Elements (“Wong Decl.”) 52 (Excerpts from Deposition of 53 Philip Kasten (Juniper 54 30(b)(6)))	55 This exhibit contains Juniper 56 Networks, Inc.’s confidential 57 information relating to its 58 proprietary software and trade 59 secrets.	60 GRANTED.
61 Exhibit 8 to the Wong Decl. 62 (Excerpts from Deposition of 63 Gavin Cato (Dell 30(b)(6)))	64 Third-party Dell has not 65 submitted a declaration in 66 support of sealing this exhibit.	67 DENIED.

1	Exhibit 9 to the Wong Decl. (Excerpts from Deposition of Balaji Venkatraman (HP 30(b)(6)))	Third-party HP Enterprise has not submitted a declaration in support of sealing this exhibit.	DENIED.
4	Exhibit 11 to the Wong Decl. (Excerpts from Deposition of Tong Liu)	Pages 167-172 contain Cisco's confidential information relating to product development and architecture. Cisco does not seek to seal other portions of this exhibit.	GRANTED as to pages 167- 172; and DENIED as to remainder.
7	Exhibit 12 to Wong Decl. (Excerpts from September 16, 2016 Deposition of Kirk Lougheed)	Pages 506, 583-584, 587-588, and 626 contain Cisco's confidential information relating to product development and architecture. Cisco does not seek to seal other portions of this exhibit.	GRANTED as to pages 506, 583-584, 587-588, and 626; and DENIED as to remainder.

B. ECF 592

Identification of Documents to be Sealed	Description of Documents	Court's Order
The Court's Order on <i>Daubert</i> Motions	Arista seeks to seal the following portions – page 18, line 21, beginning with the percentage figure, through page 19 line 1; page 19, line 6: the percentage figure; Page 19, line 10: the percentage figure; page 19, line 14: the percentage figure; page 19, line 27, beginning with the percentage figure, through page 19 line 28; page 20, line 2: the percentage figure; page 20, line 9: the percentage figure, which contain confidential information relating to Arista's finances and competitive intelligence.	GRANTED.

III. ORDER

For the foregoing reasons, the Court GRANTS IN PART and DENIED IN PART the sealing motion at ECF 584, and the Court GRANTS the sealing motion at ECF 592. Under Civil Local Rule 79-5(e)(2), for any request that has been denied because the party designating a

1 document as confidential or subject to a protective order has not provided sufficient reasons to
2 seal, the submitting party must file the unredacted (or lesser redacted) documents into the public
3 record no earlier than 4 days and no later than 10 days from the filing of this order. With respect
4 to the motion at ECF 592, Arista is ordered to file a redacted version of the Court's *Daubert* order
5 within 10 days from the filing of this order.

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7 **IT IS SO ORDERED.**

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9 Dated: October 27, 2016

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BETH LABSON FREEMAN
United States District Judge